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13 Attorneys for Plaintiff  
**FIREMAN'S FUND INSURANCE COMPANY**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

21 FIREMAN'S FUND INSURANCE COMPANY,  
22 a corporation,

23 Plaintiff,

24 || V.

25 FUJI ELECTRIC SYSTEMS CO., LTD., a  
corporation (formerly known as FUJI ELECTRIC  
26 CO. LTD.); and FUJI ELECTRIC CORP. OF  
AMERICA, a corporation.

### Defendants.

Case No. C 04 3627 MMC

**STIPULATION AND [PROPOSED]  
ORDER TRANSFERRING  
ACTION TO THE EASTERN  
DISTRICT OF TEXAS PURSUANT  
TO 28 U.S.C. § 1404(a)**

1           WHEREAS, Plaintiff Fireman's Fund Insurance Company ("Fireman's Fund") filed the  
2 above-captioned action on August 26, 2004;

3           WHEREAS, Fireman's Fund filed a First Amended Complaint on February 15, 2005;

4           WHEREAS, in this action Fireman's Fund seeks a declaratory judgment that neither Fuji  
5 Electric Systems, Co., Ltd. nor Fuji Electric Corporation of America ("Fuji America") has proven  
6 that it is entitled to payment under Fireman's Fund Open Marine Package Policy OC 9614220  
7 ("the Policy") for damage to a generator step-up transformer during shipment from Yokohama,  
8 Japan to a Bechtel Power Corporation jobsite at the Cottonwood Power Project, Deweyville,  
9 Texas;

10          WHEREAS, Fuji America filed an action entitled *Fuji Electric Corp. of America v.*  
11 *Fireman's Fund Insurance Company*, Case No. 9:05 CV 27 in the Eastern District of Texas on  
12 February 4, 2005 for breach of contract alleging that Fireman's Fund's denial of claims under the  
13 Policy constitutes a breach of the Policy;

14          WHEREAS, the actions pending in the Northern District of California and the Eastern  
15 District of Texas involve overlapping facts and circumstances;

16          WHEREAS, Fireman's Fund and Fuji America agree that as a matter of efficiency and in  
17 the interests of justice and based on the relative ease of access to sources of proof and the  
18 convenience of the parties and the witnesses that this action should proceed in the Eastern District  
19 of Texas;

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21          IT IS HEREBY STIPULATED, by and between the undersigned attorneys for Fireman's  
22 Fund and Fuji America that:

23          1.       The above-captioned action shall be transferred to the Eastern District of Texas for  
24 consolidation with *Fuji Electric Corp. of America v. Fireman's Fund Insurance Company*,  
25 Case No. 9:05 CV 27;

26          2.       This stipulation shall be without prejudice to the right of any party to make any  
27 relevant and timely motion once the case has been transferred to the Eastern District of Texas;

1       3. None of the terms of this Stipulation and [Proposed] Order shall become effective  
2 until approved by the Court.

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5       Dated: July 14, 2005

Respectfully submitted,

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JIM MCCABE  
PHILIP T. BESIROF  
MORRISON & FOERSTER LLP

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By: \_\_\_\_\_/s/

Philip T. Besirof

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Attorneys for Defendant  
FUJI ELECTRIC CORP. OF  
AMERICA

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Dated: July 14, 2005

Respectfully submitted,

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KENT J. CLANCY  
PETER A. CLANCY  
BULLIVANT HOUSER BAILEY PC

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By: \_\_\_\_\_/s/

Peter A. Clancy

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Attorneys for Plaintiff  
FIREMAN'S FUND INSURANCE  
COMPANY

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#### **GENERAL ORDER 45 ATTESTATION**

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I, Elisabeth S. Traugott, am the ECF User whose ID and password are being used to file  
this Stipulation and [Proposed] Order Transferring Action to the Eastern District of Texas  
Pursuant to 28 U.S.C. § 1404(a). In compliance with General Order 45, X.B., I hereby attest that  
Peter A. Clancy and Philip T. Besirof have concurred in this filing.

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/s/ Elisabeth S. Traugott  
Elisabeth S. Traugott

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated July 14, 2005

